

December 20, 2007

Docket Nos. 71-5979 and 71-0086
EA No. 07-215

Mr. Troy Hedger
Chief Executive Officer
Alpha Omega Services, Inc.
9156 Rose Street
Bellflower, CA 90706

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$19,200, NRC OFFICE OF INVESTIGATIONS REPORT NO. 4-2005-016

Dear Mr. Hedger:

This refers to the investigation conducted between May 4, 2005 and February 6, 2006, at your Bellflower, California, facility. The investigation was conducted to determine whether Alpha Omega Services, Inc. (AOS) deliberately failed to provide complete and accurate information to the U.S. Nuclear Regulatory Commission (NRC) regarding a Certificate of Compliance (CoC) No. 5979 for the Model No. 5979 shipping package, serial number 1B.

On November 8, 2007, a pre-decisional enforcement conference was conducted at the NRC Headquarters office with you to discuss two apparent violations of 10 CFR 71.8, "Deliberate misconduct," their significance, the root causes, and your corrective actions.

Based on the information developed during the investigation and the information that you provided during the conference, the NRC has determined that a violation of 10 CFR 71.8, "Deliberate misconduct," occurred. The violation consists of two examples and is cited in the enclosed Notice of Violation (Notice) [Enclosure 1].

First, AOS deliberately provided materially inaccurate information to an NRC licensee and to a contractor of the licensee in violation of 10 CFR 71.8(b)(2). Specifically, in January 2003 during the performance of a maintenance inspection of package Model No. 5979, serial number 1B, the then Operations Manager and Assistant Radiation Safety Officer of AOS indicated on the maintenance checklist that end caps and bolts for the package were in compliance with the CoC and signed the maintenance checklist representing that the package was approved for use, when he knew that the end caps and bolts did not comply with the CoC. The inaccurate maintenance checklist was material to the NRC because it concealed the fact that the package did not comply with the CoC. AOS then returned the package to its owner, Foss Therapy Services (FTS), along with the inaccurate maintenance inspection checklist. Subsequently, FTS provided the package to Source Production and Equipment Company (SPEC), an NRC licensee pursuant to 10 CFR 110, for use in the export of licensed radioactive material on behalf of FTS. AOS specifically provided the inaccurate maintenance inspection checklist to FTS by, at a minimum, giving it to an official of FTS, who in his capacity as a

contractor to SPEC performed inspections of packages exported by SPEC. The contractor then relied on the inaccurate maintenance checklist, instead of comparing the package to the drawings for CoC No. 5979, to certify during his inspections for SPEC that the package met all federal requirements. The contractor also supplied the inaccurate maintenance inspection checklist to SPEC.

Second, in violation of 10 CFR 71.8(b)(1), AOS deliberately caused an NRC licensee to violate NRC regulations. Specifically, as a result of the contractor's and SPEC's reliance upon the materially inaccurate maintenance inspection checklist, SPEC exported licensed material in nonconforming packages. Pursuant to 10 CFR 71.17(c) [formerly 71.12(c)] and because SPEC delivered for transport and transported licensed material in a nonconforming package, SPEC did not have a general license to deliver for transport or to transport the packages. Consequently, AOS deliberately put SPEC in violation of 10 CFR 71.3, "Requirement for license," which provides that licensed material may not be delivered for transport or transport without a license to do so.

At least three export shipments of licensed radioactive material were made between July 2003 and May 2004 using the Model No. 5979 package in a nonconforming condition. While the NRC is not aware of actual safety consequences associated with the shipments, the potential safety consequences were significant, considering the potential adverse impact of shipping radioactive materials in an unapproved package design that had not been demonstrated to meet the transportation package approval standards for both normal and hypothetical accident conditions as required by 10 CFR Part 71. Of the many controls that are in place to assure public health and safety during the transport of radioactive materials, one of the most important is that the configuration of the package conforms to that analyzed and approved by the NRC staff, through the package CoC process, so as to assure integrity of the package during transportation for both normal and hypothetical accident conditions.

This violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level II. In accordance with the Enforcement Policy that was in effect as of the date of violation, a base civil penalty in the amount of \$9,600 is considered for a Severity Level II violation. Because this violation was willful and a Severity Level II, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. With regard to identification, credit is not warranted because AOS did not identify the deliberate misconduct that is the subject of this violation. With regard to corrective actions, at the pre-decisional enforcement conference, AOS described procedural controls that were put in place and which now require three signatures on the package maintenance checklist, as well as controls to assure that any packages sold in the future, if they have any discrepancies, that those discrepancies are clearly documented. However, these corrective actions are not considered comprehensive because they do not address the underlying cause of the falsification of the maintenance record or include comprehensive actions to prevent recurrence, both with respect to the responsible individual and with respect to training of AOS staff on this event and, especially, with regard to the potential safety consequences of the violation. As a result, no credit was given for corrective action.

Therefore, to emphasize the importance of accurate and complete information and compliance with the regulations, I have been authorized, after consultation with the Director, Office of

Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) at \$19,200, twice the base amount of \$9,600 for the Severity Level II violation (based on Civil Penalty amounts in effect on the date of the violation). In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to an increased inspection effort.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. In particular, the Notice specifies that your response should include for each violation the corrective steps that will be taken to avoid further violations. For these corrective steps, please include your plans and progress toward submitting to the NRC the names of the person(s) whom you plan to be authorized for certificated and licensed activities, since NRC has taken action to no longer permit the current named individual to participate in such activities: (1) replacements for individuals listed on any NRC certificates, licenses, quality assurance approval programs; and (2) the individual(s) who can receive safeguards information for AOS.

In accordance with 10 CFR 2.390 of the NRC "Rules of Practice," a copy of this letter, its enclosure(s), and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **About NRC, Organizations & Functions, Office of Enforcement**, then **Enforcement Documents**.

Sincerely,

/RA/ Eric Leeds, for

Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods

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